

# May 2018

## Commission Meeting Summaries

These are summaries of orders voted by the Federal Energy Regulatory Commission at its May 17, 2018 public meeting. The summaries are produced by FERC's Office of External Affairs and are intended to provide only a general synopsis of the orders. These summaries are not intended as a substitute for the Commission's official orders. To determine the specific actions and the Commission's reasoning, please consult the individual orders when they are posted to FERC's eLibrary found at [www.ferc.gov](http://www.ferc.gov).

### **FERC proposes a rule**

**E-1, *Geomagnetic Disturbance Reliability Standard***, Docket No. RM18-8-000. This Notice of Proposed Rulemaking addresses proposed Reliability Standard TPL-007-2 (Transmission System Planned Performance for Geomagnetic Disturbance Events) submitted by the North American Electric Reliability Corporation (NERC). The proposed Reliability Standard was developed and submitted by NERC in response to a Commission directive in Order No. 830 to modify currently effective Reliability Standard TPL-007-1.

### **FERC clarifies an order, denies, in part, and grants, in part, rehearing**

**E-2, *Regulations Implementing FAST Act Section 61003 - Critical Electric Infrastructure Security and Amending Critical Infrastructure Information***, Docket No. RM16-15-001. This order denies, in part, and grants, in part, Edison Electric Institute's request for clarification or, in the alternative, rehearing of Order No. 833 that amends the Commission's regulations to implement provisions of the Fixing America's Surface Transportation Act pertaining to the designation, protection, and sharing of Critical Energy/Electric Infrastructure Information.

### **FERC affirms an Initial Decision**

**E-3, *Southwest Power Pool, Inc.***, Docket No. ER16-204-001. The order affirms the Presiding Judge's finding that SPP's proposed revisions to its tariff to incorporate Tri-State Generation and Transmission Cooperative, Inc. as a new transmission owner are just and reasonable.

### **FERC denies rehearing**

**E-4**, *Southwest Power Pool, Inc.*, Docket No. ER17-1575-002. This order denies rehearing of an October 19, 2017 order that rejected proposed revisions to SPP's tariff regarding the eligibility of customers with network service subject to redispatch to receive Auction Revenue Rights and Long-Term Congestion Rights.

### **FERC denies rehearing**

**E-5**, *Southwest Power Pool, Inc., Buffalo Dunes Wind Project, LLC, Enel Green Power North America, Inc., Alabama Power Co., and Southern Co. Services, Inc. v. Southwest Power Pool, Inc.*, Docket Nos. EL16-110-002 and EL17-69-001. This order denies rehearing of the October 19, 2017 orders in Docket Nos. EL16-110-000 (Paper Hearing Order) and EL17-69-000 (Complaint Order). The Paper Hearing Order found SPP's tariff provisions regarding the allocation of Auction Revenue Rights (ARRs) and Long-Term Congestion Rights (LTCRs) to customers with network service subject to redispatch to be unjust and unreasonable, and the Complaint Order denied a complaint alleging that SPP's prior allocation of ARRs and LTCRs to customers with network service subject to redispatch violated its tariff.

### **FERC denies rehearing**

**E-6**, *Joint California Complainants v. Pacific Gas and Electric Co.*, Docket No. EL17-59-001. This order denies a request for rehearing of the Commission's November 16, 2017 Order that denied a complaint against Pacific Gas and Electric Co. (PG&E) regarding PG&E's eighteenth transmission owner tariff rates.

### **FERC establishes hearing and settlement judge procedures**

**E-7**, *California Public Utilities Commission v. Pacific Gas & Electric Co.*, Docket Nos. EL17-95-000 and ER17-2154-000. This order establishes hearing and settlement judge procedures to investigate Pacific Gas & Electric Co.'s most recent rate increase, TO19, in response to a complaint filed by several California agencies and organizations. The order also consolidates this matter with the hearing and settlement judge procedures that are ongoing in Docket No. ER17-2154-000.

### **FERC establishes hearing and settlement judge procedures**

**E-8**, *Oklahoma Municipal Power Authority v. Oklahoma Gas and Electric Co.*, Docket No. EL18-58-000. This order sets Oklahoma Municipal Power Authority's complaint against Oklahoma Gas and Electric Co. (OG&E) for hearing and settlement judge procedures. The complaint alleges that OG&E's base return on equity is unjust and

unreasonable and that OG&E's formula rate needs to be revised to reflect all of the effects of the Tax Cuts and Jobs Act.

### **FERC denies, in part, a waiver request**

**E-9**, *Zeeland Farm Services, Inc.*, Docket No. EL17-70-000, *et al.* The order denies, in part, and grants, in part, a requested waiver of the qualifying facility filing requirements of 18 C.F.R. § 292.203(a)(3), so that Zeeland Farm's facilities will be treated as qualifying facilities for the period that they operated out of compliance with section 292.203(a)(3). As a consequence, the facilities will qualify for most of the exemptions contained in sections 292.601 and 292.602 of the Commission's regulations, excepting the exemption from sections 205 and 206 of the Federal Power Act.

### **FERC affirms an Initial Decision**

**E-11**, *Louisiana Public Service Commission v. Entergy Services, Inc.*, Docket No. EL01-88-015. The order affirms the Presiding Judge's findings that the appropriate start date for interest is June 1, 2006, the date that payments should have been made, rather than June 1, 2005, the first day of the test period. The order affirms the Presiding Judge's finding that a portion of Entergy Louisiana's Net Operating Loss Accumulated Deferred Income Tax (ADIT) is attributable to the Vidalia tax deduction. The order also affirms the Presiding Judge's related finding that it is appropriate to exclude from the 2005 bandwidth calculation Net Operating Loss ADIT recorded in Account 190 that is attributable to the Vidalia tax deduction. The order agrees with the Presiding Judge that Entergy did not properly account for certain regulatory asset deferrals. Although the Presiding Judge did not address whether corrections for the regulatory asset deferrals should be made for years subsequent to the 2005 bandwidth period, the order finds that making such corrections is necessary to ensure proper implementation of the filed rate.

### **FERC partially affirms an Initial Decision**

**E-12**, *Louisiana Public Service Commission v. Entergy Services, Inc.*, Docket No. EL01-88-017. The order affirms the Presiding Judge's ruling that the 2006 Compliance Tariff should be used for calculating bandwidth payments and receipts for the 2005 bandwidth period. The order disagrees with the Presiding Judge's decision that the bandwidth formula to be used in this proceeding must contain all amendments that have been made to the formula in subsequent years. The order finds that the Presiding Judge was correct to summarily strike certain other issues that constitute collateral attacks on prior Commission orders.

## **FERC approves a final rule**

**M-2**, *Withdrawal of Pleadings*, Docket No. RM18-7-000. This final rule adopts the more accurate title of “Withdrawal of Pleadings” for Rule 216 from the Commission’s Rules of Practice and Procedure. The final rule also clarifies the text of Rule 216.

## **FERC accepts a filing**

**G-1**, *Kinetica Energy Express, LLC*, Docket Nos. RP16-1299-003, RP17-977-000. The order accepts a multi-part compliance filing regarding secondary point rights and curtailment policy.

## **FERC establishes hearing procedures**

**G-2**, *White Cliffs Pipeline, L.L.C.*, Docket No. OR18-9-000. This order addresses White Cliffs’ application for market-based rates for crude oil transportation on its pipeline from Platteville, Colorado, (in the proposed origin market of the Niobrara Shale Region) to Cushing, Oklahoma, (in the proposed destination market of BEA No. 170, Tulsa-Bartlesville, Oklahoma). The order grants the pipeline’s request for market-based rate authority for its destination market and sets for hearing the issue of whether the pipeline has market power in the proposed origin market.

## **FERC affirms an Initial Decision**

**G-4**, *Seaway Crude Pipeline Company LLC*, Docket No. OR15-6-000. This order involves Seaway’s application for market-based rate authority for its crude oil pipeline transporting crude oil from its origin at Cushing, Oklahoma, to the U.S. Gulf Coast. The order affirms the Presiding Judge’s finding that Seaway lacks significant market power in its origin and destination markets, and grants Seaway market-based rate authority. The order also clarifies that, when conducting a market power analysis, the focus on used alternatives includes only those alternatives that are currently used, and that determining whether a competitive alternative is currently used is a fact-based analysis to be conducted on a case-by-case basis.

## **FERC denies rehearing**

**G-5**, *Peregrine Oil & Gas II, LLC*, Docket No. RP17-811-001. This order dismisses a request by Peregrine for rehearing and clarification of an October 27, 2017 order in this proceeding. Peregrine’s complaint alleged that Texas Eastern Transmission LP (Texas Eastern) violated its service obligations under its tariff and section 4 of the Natural Gas Act (NGA) by failing to exercise due diligence to remedy an outage on its FERC-certificated Line 41-A system. In the October 2017 order, the Commission addressed certain matters raised by the complaint and set the remaining issues for hearing. In

particular, the Commission found that a temporary outage of Texas Eastern's Line 41-A did not amount to an abandonment of service on the line within the meaning of the NGA. The rehearing order denies Peregrine's request for reasons similar to those contained in the October 27, 2017 Order.

### **FERC proposes a rule**

**H-1**, *Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects*, Docket No. RM18-14-000. The Notice of Proposed Rulemaking proposes to revise the Commission's regulations to eliminate the Licensed Hydropower Development Recreation Report, designated as FERC Form No. 80 (Form 80). Form 80 solicits information on the use and development of recreation facilities at hydropower projects licensed by the Commission under the Federal Power Act. The proposed elimination of Form 80 would reduce burden on licensees and Commission staff alike. In addition, the Commission proposes to revise sections 8.1 and 8.2 of its regulations, related to recreational use and development at licensed projects, in order to modernize public notice practices, clarify recreational signage requirements, and provide flexibility to assist licensees' compliance efforts.

### **FERC grants conditional authorization for a proposed pipeline expansion**

**C-1**, *Gulf South Pipeline Company, LP*, Docket No. CP17-476-000. The order grants Gulf South a certificate of public convenience and necessity to construct and operate the proposed Westlake Expansion Project in Calcasieu Parish, Louisiana, that will provide firm transportation service to Entergy Louisiana, LLC's proposed Lake Charles Power Plant.

### **FERC grants conditional authorization for a leased capacity agreement**

**C-2**, *Tennessee Gas Pipeline Company, L.L.C., Kinder Morgan Border Pipeline LLC and Kinder Morgan Tejas Pipeline LLC*, Docket No. CP18-48-000. The order grants subject to conditions, the requests of Tennessee, Border, and Tejas that seek authorization for Tennessee to lease capacity on Border's and Tejas' pipelines. Specifically, Tennessee seeks authorization to acquire 100,000 dekatherms per day of capacity in northern Texas by lease from Border and Tejas. Border and Tejas are intrastate pipeline companies that request limited jurisdiction certificates enabling Tennessee to use existing capacity on their systems, under a capacity lease, to provide firm transportation service in interstate commerce and for a determination that leasing capacity to Tennessee will not affect their status as intrastate pipeline companies otherwise exempt from the Commission's jurisdiction.